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116th Congress
VAT Accomplishments

Pro-Life Victory: POTUS sends veto letter to Pelosi

On January 18, 2019, President Trump sent a letter to Speaker Pelosi promising to veto any legislation that weakens federal pro-life protections. The letter reads in part: "I am concerned that this year, the Congress may consider legislation that could substantially change Federal policies and laws on abortion, and allow taxpayer dollars to be used for the destruction of human life." The letter concludes with the following: "I believe it is the most basic duty of government to guard the innocent. With that in mind, I will veto any legislation that weakens current pro-life Federal policies and laws, or that encourages the destruction of innocent human life at any stage."

Rep. Chris Smith (NJ-04) led 169 Members in requesting this commitment from the President; Senator Steve Daines (R-MT) sent a similar letter to the President with 49 Senate signatures. Former Presidents George H.W. Bush and George W. Bush also issued veto letters during their terms in office.

Pro-Life Victory: HHS Releases Final Protect Life Rule

On February 22, 2019, the U.S. Department of Health and Human Services (HHS) issued a final rule revising guidelines for the federal Title X family planning grant program. Under the updated regulation, *Compliance With Statutory Program Integrity Requirements* or the *Protect Life Rule*, Title X providers are no longer required to refer clients to abortion providers. The final rule also provides safeguards for women and children by requiring Title X clinic staff training and clinic protocols to identify and protect victims of sexual assault. The updated rule requires compliance with state reporting requirements on sexual assault crimes and human trafficking and encourages better parent and child communication when adolescents are seeking family planning care.

The updated regulation requires physical and financial separation between Title X clinics and abortion providers. This particular provision will distinguish between family planning and abortion services. The largest abortion provider in the U.S., Planned Parenthood, applies for and receives approximately $60 million annually through the Title X program. Under the new regulations, Planned Parenthood clinics will need to choose between providing abortions and applying for family planning grant funding.

The Title X final rule is consistent with two letters Reps. Ron Estes, Vicky Hartzler, Diane Black and Chris Smith led in 2018 requesting modified Title X regulations and supporting HHS' proposed rule. Members also sent a letter thanking Secretary Azar for issuing the final rule.

Although the rule went into effect on July 15, 2019, the Administration has granted extended compliance with several provisions. The physical separation requirement becomes effective March 4, 2020.

The Title X program began in 1970 and is the only federal program dedicated to family planning services for low income families. This final rule marks the first time in nearly 20 years that governing regulations have been updated.

Additional Materials: HHS Fact Sheet

Pro-Life Victory: HHS Updates Fetal Tissue Research Policy

On June 5, 2019, the U.S. Department of Health and Human Services (HHS) released an updated policy position on fetal tissue research, specifically addressing the concerns many Members raised regarding research projects utilizing fetal tissue obtained from abortion victims. The HHS announcement 1) ends a major research contract with the University of California, San Francisco (UCSF) which used the bone marrow, livers, and thymuses from aborted babies; 2) stops the NIH from conducting research (intramural research) which requires the new acquisition of fetal tissue from elective abortions; and 3) requires that extramural research projects (federally funded non-NIH projects) be approved by an ethics advisory board.

HHS is preparing regulatory policy changes to provide safeguards for extramural fetal tissue research. The Department is also funding grant opportunities for ethical fetal tissue research that does not rely on the abortion industry.

This HHS announcement is a direct response to a November 2018 Member letter Reps. Chris Smith and Vicky Hartzler led asking HHS to cancel the contract with UCSF and to place an agency-wide moratorium on funding research which uses baby body parts following an abortion.

Additional Materials: HHS Statement

Pro-Life/Religious Freedom Victory: HHS Issues Final Conscience Regulations

On May 2, 2019, the U.S. Department of Health and Human Services (HHS) issued a final rule, *Protecting Statutory Conscience Rights in Health Care; Delegations of Authority*, providing health care providers and professionals with robust conscience protections. The final rule implements 25 current federal conscience statutes, replacing the 2011 HHS rule which only governed three statutes.

Under the final rule, neither the government nor government funded entities can force doctors, nurses, health professionals, or health care employees to participate in abortion, sterilization, or assisted suicide in violation of the individual's religious or moral conviction. The final rule protects those in the health industry against government discrimination for exercising religious beliefs. Like other civil rights enforcements, HHS will be able to review complaints of government discrimination, investigate, and require compliance with these regulations.

This conscience regulation includes federal statutes such as the Church Amendments, the Coats-Snowe Amendment, the Weldon Amendment, and Obamacare conscience protections. The rule was scheduled to take effect on July 22, 2019, but due to ongoing litigation and anticipation of a ruling on the merits of the case (summary judgment) rather than just an injunction, HHS agreed to delay implantation until November 22, 2019.

Additional Materials: HHS Final Conscience Regulation

Religious Freedom Victory: Prayers Offered in the U.S. House of Representatives

On April 19, 2019, the DC Circuit Court of Appeals upheld Congress' right to require that opening legislative prayers be religious in nature. In the case, *Barker v. Conroy*, House Chaplain, Father Patrick Conroy, did not permit Freedom from Religion Foundation (FFRF) co-president, Daniel Barker, to serve as guest chaplain, because Mr. Barker was neither religious nor did Mr. Barker intend to offer a prayer to a 'higher power'. In deciding the case, Judge Tatel stated that the Court, "has never suggested that legislatures must allow secular as well as religious prayer…..the House does not violate the Establishment Clause by limiting its opening prayer to religious prayer."

In July 2018, Rep. Vicky Hartzler (MO-04) led 48 Members in an *amicus* brief supporting Congress' historic practice of religious prayers.

Religious Freedom Victory: Bladensburg WWI Veterans Memorial

On June 20, 2019, the U.S. Supreme Court (SCOTUS) ruled in favor of the Bladensburg WWI Memorial in the case *American Legion v. American Humanist Association*. The 7-2 decision found that the historical cross-shaped monument does not violate the Establishment Clause. In delivering the opinion of the High Court, Justice Alito stated the following:

> The cross is undoubtedly a Christian symbol, but that fact should not blind us to everything else that the Bladensburg Cross has come to represent. For some, that monument is a symbolic resting place for ancestors who never returned home. For others, it is a place for the community to gather and honor all veterans and their sacrifices for our Nation. For others still, it is a historical landmark. For many of these people, destroying or defacing the Cross that has stood undisturbed for nearly a century would not be neutral and would not further the ideals of respect and tolerance embodied in the First Amendment. For all these reasons, the Cross does not offend the Constitution.

In 2014, the American Humanist Association filed a lawsuit seeking to abolish the 93-year old cross-shaped war memorial. The memorial was designed by Gold Star Mothers and established by the American Legion to honor 49 local fallen American soldiers who dies overseas during the Great War. Rep. Steve Scalise (LA-01) led two Member amicus briefs in support of the cross memorial.

Family Values Victory: The Department of Defense's Policy for Transgender Individuals

On March 12, 2019, the Department of Defense issued Directive-type Memorandum (DTM)-19-004—Military Service by Transgender Persons and Persons with Gender Dysphoria. This DTM effectively implements President Trump's 2018 transgender service policy, known as the Mattis Policy, beginning April 12, 2019.

The nuanced Mattis Policy makes a distinction between currently serving Service members and new applicants. It also distinguishes between transgender individuals who *do not* have a diagnosis or history of gender dysphoria (persons who are transgender but have not been diagnosed with a related mental condition); individuals who *do* have a diagnosis or history of gender dysphoria; and individuals who have a history of medical transition treatment, which could include cross-sex hormone therapy and/or sex reassignment. The Mattis Policy grandfathers in all currently serving transgender Service members.

Until President Obama changed the policy in 2016, the military standards were clear on the accession and retention of transgender persons: persons with a history of 'transsexualism' were disqualified, as were persons who had abnormalities, defects, or surgery of the genitalia. Individuals were able to apply for waivers should any of these disqualifying criteria apply. In 2016, then Secretary Carter established new standards

prohibiting separation from military service based on gender preferred characteristics, granting exemptions from medical standards, and providing federal funds for and military support of Service members transitioning from one gender to another.

The 2018 Mattis Policy was crafted to ensure that all Service members are subject to the same medical and sex-based standards. Individuals with gender dysphoria struggle with high rates of suicide, anxiety, depression, and substance use disorders. Transgender individuals who require cross-hormone therapy or reassignment surgery may not be deployable during recovery stages.

The 2018 Mattis Policy which replaces the 2016 Carter policy, provides for the following:

- Transgender individuals can serve in the military in their biological sex. The Mattis Policy does not kick anyone out of the military for being transgender. Neither does it give preferential treatment to transgender persons—all persons, unless grandfathered or granted a waiver, must serve in their birth gender.
- Military recruits with gender dysphoria must be stable for 36 months prior to service and must be willing to serve in their biological sex. As with any medical or mental health condition, the military is not interested in accessing persons who are unable to deploy or who may have residual health challenges.
- Medical transition treatment (cross-sex hormone therapy, sex reassignment) disqualifies applicants from military service. This applies to all new recruits. Grandfathered Service members, however, will be able to continue cross-sex hormone treatment, and must be stable following surgical procedures.
- Currently serving transgender Service members with a diagnosis of gender dysphoria are grandfathered under the 2018 Mattis Policy. This population of Service members remains able to serve within specific guidelines.
- The military is permitted to grant waivers to the Mattis policy.

Additional Materials: **Military Service by Transgender Individuals**